

Sisk, Richard

From: Schmittiel, Paula
Sent: Friday, May 09, 2014 12:07 PM
To: Schmittiel, Paula
Subject: FW: VB/I70 OU1
Attachments: CAOletterEPAoptions.PDF

Paula Schmittiel
Remedial Project Manager
U.S. Environmental Protection Agency
1595 Wynkoop St.
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From: Hestmark, Martin
Sent: Monday, February 25, 2013 12:08 PM
To: Madigan, Andrea; Sisk, Richard; Murray, Bill; Wharton, Steve; Schmittiel, Paula
Cc: Stavnes, Sandra; Cantor, Howard
Subject: FW: VB/I70 OU1

So this is the latest we got from Jim's inquiries. Howard I wonder if it might be useful for Andrea, Richard, Paula and I to offer to meet with Doug and make sure that Doug is clear about what we wish to do and why and then see if it clears up. Your thoughts?

From: Martin, Jim
Sent: Friday, February 22, 2013 2:10 PM
To: Hestmark, Martin
Subject: FW: VB/I70 OU1

Martin – I think Doug and the city are still confused, thinking we're going to somehow encumber someone's title.

It might be at this point that you or someone could try to go a little higher in the food chain to explain that is not the case. Maybe the city attorney?

I regret I could not resolve this issue for you before I left.

Jim

From: Linkhart, Doug – Manager of Environmental Health [<mailto:Douglas.Linkhart@denvergov.org>]
Sent: Friday, February 22, 2013 2:02 PM
To: Martin, Jim
Cc: Berardini, Jacqueline H. - Department of Law; Vanderloop, Cella L. - Environmental Svc Div Ent Fund; Farrell, Lisa - Environmental Health
Subject: VB/I70 OU1

Jim,

Sorry again to hear that you're leaving the agency. I know that you wanted to hear back from us regarding VB/I-70 by today if possible, so I will tell you where stand at this point.

I am attaching the letter that was sent to EPA by our City Attorney's Office on October 30, 2012, which indicates that our least favorite option would be to post a notice on the titles of the homeowners who have not agreed to sampling or remediation. There has not been a response to this letter from EPA as far as we know, so we do not know whether the other two options we offered were considered.

As far as we're concerned, nothing has happened since late October that would change the City's position. While we do not favor EPA placing a notice on the property records of these owners, we would urge that, if you do so, that you include a mechanism for homeowners to change the status of this notice at a later date.

Thank you for your consideration of our thoughts, and good luck as you move forward in other pursuits.

Doug Linkhart
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MICHAEL B. HANCOCK
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DEPARTMENT OF LAW
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October 30, 2012

Mr. Richard Sisk
United States Environmental Protection Agency
Region 8
1595 Wynkoop Street
Denver, CO 80202

RE: Vasquez Boulevard/I-70 Superfund Site, Operable Unit 2

Dear Mr. Sisk:

Thank you for providing the City and County of Denver an opportunity to consult with you about the Five-Year Review of the Vasquez-Boulevard/I-70 Superfund Site, Operable Unit 2. As we understand the situation, most residential properties have been sampled and remediated if action levels were exceeded, as required by the Record of Decision. However, access for sampling or remediation has not been granted to EPA for a small number of owner-occupied or leased properties. EPA-8 has proposed several options regarding these properties. Denver's advice regarding each of the options is summarized, below, in the order of most favored to least favored.


1. EPA would amend the Record of Decision to require best efforts to gain access for sampling and remediation of the residential properties; and, to require sampling and remediation only to the extent that access is available after exhaustion of such best efforts. Denver agrees that this approach is appropriate. Further, best efforts should be defined to include extensive outreach; whether best efforts also include issuance of administrative orders to gain access should be stated. Denver agrees that extensive outreach has been conducted and that 'best efforts' does not necessarily need to include issuance of administrative enforcement orders.

2. EPA would provide a Notice of Potential Environmental Conditions by annual letter to the owner of record and occupant of the property (until such time as access is granted for sampling and remediation as necessary (i.e., exceedance of action levels). Denver agrees that this annual notification, to provide the owner and occupant information about the potential problem, is prudent. The letters should be delivered to the property owner's address on file with the Denver Assessor's Office as well as to the physical address in order to reach both owner and occupant. This approach, however, raises the question whether EPA would provide remediation of one or more of these properties in the future.

3. EPA would file a Notice of Potential Environmental Conditions in the real estate record for each of the properties. Denver does not believe that there is sufficient information to warrant Denver to invoke its own legal authority to do this. Similarly, we don't think that EPA has demonstrated a public health or environmental need to take this extraordinary action.

If you wish to discuss this further, please feel free to telephone me or Lisa Farrell (303-312-6861).

Sincerely,



Jacqueline H. Berardini, Esq.
Assistant City Attorney

cc: Celia Vanderloop
✓ Lisa Farrell
Bill Benerman